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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.           | CONFIRMATION NO. |
|--|-------------|----------------------|-------------------------------|------------------|
| 10/676,760   | 10/01/2003  | Donald Alfons Kubik  | NTIC-G-CON-CIP<br>(NTICPO114) | 7882             |
| 28862  | 7590        | 12/01/2006           | EXAMINER                      |                  |
| HUDAK, SHUNK & FARINE, CO., L.P.A.<br>2020 FRONT STREET<br>SUITE 307<br>CUYAHOGA FALLS, OH 44221 |             |                      | TOOMER, CEPHIA D              |                  |
|  |             |                      | ART UNIT                      | PAPER NUMBER     |
|  |             |                      | 1714                          |                  |

DATE MAILED: 12/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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|                              |                                      |                                     |  |
|------------------------------|--------------------------------------|-------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/676,760 | <b>Applicant(s)</b><br>KUBIK ET AL. |  |
|                              | <b>Examiner</b><br>Cephia D. Toomer  | <b>Art Unit</b><br>1714             |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,9-14 and 20-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 22-24 is/are rejected.
- 7) ☒ Claim(s) 3-5,9-14,20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

This Office action is in response to the amendment filed September 18, 2006 in which claims 1-5 and 9-14 were amended and claims 20-24 were added.

The rejection of the claims under 35 USC 112, first paragraph is withdrawn in view of Applicant's arguments and the amendment to the claims.

The rejections of the claims under 35 USC 103(a) is withdrawn in view of Applicant's arguments and the amendment to the claims.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ali (US 4,983,661).

Ali teaches a molding composition comprising a thermoplastic resin, a metal salt and conventional additives (see abstract). The thermoplastic resin may be low density polyethylene (see col. 3, line 59-col. 4, lines 1-3). The metal salt may be a mixture of metal silicates and zinc oxide (see col. 6, lines 20-42).

Ali teaches that the thermoplastic resin is present in 20 to about 80% by weight (see col. 6, lines 57-65). The metal salt is present in the composition in an amount from about 5% to about 20% by weight (see col. 7, lines 6-14). The other conventional

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additives are present in an amount up to about 25% by weight of the molding composition.

Ali teaches the limitations of the claims other than that the metal silicate is alkali metal silicate. However, it would have been obvious to one of ordinary skill in the art to prepare a molding composition with such silicates because the general teaching of metal silicates encompass alkali metal silicates.

With respect to Ali not specifically teaching a composition wherein the metal silicate and zinc oxide are present, it would have been obvious to one of ordinary skill in the art to use a combination of these compounds because zinc oxide is a preferred metal salt and he teaches that the silicates may be combined with the oxides to inhibit plateout.


3. Claims 3-5, 9-14 and 20-21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The prior art fails to teach the claimed polymers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cephia D. Toomer whose telephone number is 571-272-1126. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 571-272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Cepha D. Toomer  
Primary Examiner  
Art Unit 1714

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